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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 Beckley Division
4 Civil Action No.: 5:14-cv-24506

5 _____
6 DAVID M. DAUGHERTY,
7 Plaintiff,

8 vs.

DEPOSITION OF:

9 EQUIFAX INFORMATION SERVICES, LLC, DAVID M. DAUGHERTY
10 and OCWEN LOAN SERVICING, LLC,
11 Defendants.

12 _____/

13
14 TRANSCRIPT of the stenographic notes of the
15 proceedings in the above-entitled matter, as taken by
16 and before, DEBRA A. VOLK, a Professional Court Reporter
17 and Notary Public of the State of West Virginia, held at
18 the offices of HAMILTON, BURGESS, YOUNG & POLLARD, PLLC,
19 5493 Maple Lane, Fayetteville, West Virginia, on
20 Wednesday, June 17, 2015, commencing at 1:05 p.m.

21
22
23 Job No. 2084505
24

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1 A. Yes, I believe so.
 2 Q. And on the next page, page 358, there's a balloon
 3 payment addendum; do you see that?
 4 A. Yes.
 5 Q. And there's also two signatures there, David
 6 Daugherty and Tina Daugherty. Are those you and your
 7 wife's signatures?
 8 A. Yes, I believe they are.
 9 Q. And you would agree that your loan here has a
 10 maturity date on July 26, 2014, right?
 11 A. Yes.
 12 Q. But you didn't make any payment on the balloon by
 13 your maturity date of July 26, 2014, right?
 14 A. That's correct.
 15 Q. Okay.
 16 I'd also like for you to turn to page 346.
 17 A. Okay.
 18 Q. And pages 346 through 355 appear to be the Deed
 19 of Trust for this loan. Are you familiar with this
 20 document?
 21 A. Yes.
 22 Q. And if you turn to page 353 there are two
 23 signatures there, David Daugherty and Tina Daugherty.
 24 Are those you and your wife's signatures?

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1 A. Yes, I believe they are.
 2 Q. So you would agree that you and your wife were
 3 the borrowers on this loan, right?
 4 A. Yes.
 5 Q. And so you would agree that by saying that this
 6 loan is not yours in this dispute letter, it really was
 7 yours, right?
 8 A. Yes.
 9 Q. Okay.
 10 I'd like to ask you to turn to the Automated
 11 Consumer Dispute Verification forms, and this was
 12 produced by Equifax. And so at the bottom, there are
 13 numbers there that say EIS Daugherty and I'd like you to
 14 first turn to page 60.
 15 A. Okay.
 16 Q. And you can see on that page it says grantor
 17 name, and it says Ocwen Loan Servicing, right?
 18 A. I'm still looking. Okay, I see it now.
 19 Q. And that's your loan number there where it says
 20 account number?
 21 A. I assume it is.
 22 Q. Do you know for sure what your loan number is?
 23 A. No, I don't, not right here, right now, no.
 24 Q. Okay.

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1 And so there under reported consumer identity, it
 2 has your name, Daugherty, David Max; do you see that?
 3 A. Yes.
 4 Q. Okay.
 5 Are you familiar with what this document is?
 6 A. No, I'm not -- I'm not familiar with it.
 7 Q. Okay.
 8 If you look at the top of this document where it
 9 says dispute one, you'll see that it says user one, not
 10 his, hers, provide complete ID; do you see that?
 11 A. Yes, I do.
 12 Q. And if you turn to page 62, this appears to be
 13 the same document that was created May 31, 2013?
 14 A. Where's page 62 at? Okay.
 15 Q. This is another Automated Consumer Dispute
 16 Verification form and there under dispute one, it says
 17 not his, hers, provide complete ID; do you see that?
 18 A. Yes, I see it.
 19 Q. And you would agree that that Ocwen Loan
 20 Servicing and your name is listed on this page as well?
 21 A. Yes.
 22 Q. And if you'll turn to page 89 there's another
 23 Automated Consumer Dispute Verification form --
 24 MR. NOLAN: Do you want to mark that as

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1 an Exhibit before we move on, Jon?
 2 MR. KENNEY: I'm sorry?
 3 MR. NOLAN: Did you want to mark that as
 4 an Exhibit before we move on?
 5 MR. KENNEY: Yes, Exhibit 4, please.
 6 * * *
 7 (Whereupon, Deposition Exhibit No. 4 marked for
 8 purposes of identification.)
 9 * * *
 10 BY MR. KENNEY:
 11 Q. And page 89, which we can mark as Exhibit 5 is
 12 another Automated Consumer Dispute Verification form.
 13 This one appears to be dated July 3, 2013; do you see
 14 that?
 15 A. Yes.
 16 * * *
 17 (Whereupon, Deposition Exhibit No. 5 marked for
 18 purposes of identification.)
 19 * * *
 20 BY MR. KENNEY:
 21 Q. And that's your loan number and Ocwen Loan
 22 Servicing listed there?
 23 A. Yes.
 24 Q. And that's your name, David Daugherty; correct?

10 (Pages 34 - 37)

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1 A. That's correct.
 2 Q. And under the dispute, it says not his or hers.
 3 right?
 4 A. Yes.
 5 Q. And if you turn to page 95, I believe this will
 6 be Exhibit 5.
 7 MR. NOLAN: It will be number 6.
 8 MR. KENNEY: I'm sorry, Exhibit 6.
 9 * * *
 10 (Whereupon, Deposition Exhibit No. 6 marked for
 11 purposes of identification.)
 12 * * *
 13 BY MR. KENNEY:
 14 Q. And this is another document dated 7/3/2013 with
 15 your loan number and Oewen Loan Servicing, correct?
 16 A. That's correct.
 17 Q. And that's your name, right?
 18 A. Yes.
 19 Q. And under the dispute, it says not his or hers,
 20 right?
 21 A. That's correct.
 22 Q. So you would agree that this loan was yours,
 23 right?
 24 A. I assume it was.

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1 Q. Okay.
 2 And so I'd like to go back to that letter from
 3 Oewen to Equifax.
 4 A. Okay.
 5 Q. I'm sorry, I'm trying to mark them trying.
 6 Actually, I'm getting the numbers wrong. I believe this
 7 is Exhibit 3; is that right?
 8 MR. NOLAN: Is this the letter from Loren
 9 Hanks?
 10 MR. KENNEY: Yes.
 11 MR. NOLAN: That's Exhibit 2, I think. I
 12 think 3 was the note.
 13 MR. KENNEY: Right. Okay. You're right.
 14 BY MR. KENNEY:
 15 Q. And so the letter from you to Equifax, the second
 16 time that Oewen is listed here, it says never late; do
 17 you see that?
 18 A. Yes.
 19 Q. Were you late at any time in making payments to
 20 Oewen?
 21 A. Yes, I had been late.
 22 Q. And I believe you mentioned in your Complaint you
 23 were late on your Oewen payment in March of 2013; is
 24 that right?

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1 A. Yes, I was late because my pension check hadn't
 2 made it into the bank and I didn't know until a couple
 3 of weeks later that it didn't go through because it
 4 wasn't in there yet, but that was the only time that it
 5 had been late in 2013.
 6 Q. There was no time before March 2013 that you were
 7 late on a payment to Oewen?
 8 A. Previously -- months, yeah, I believe yes, but
 9 that was back before I was really working hard on my
 10 credit repairs.
 11 Q. Right.
 12 So this letter to Equifax where it says never
 13 late next to your Oewen account, you would agree that
 14 you had been late before; correct?
 15 A. Yes. This wasn't -- these letters weren't from
 16 me.
 17 Q. Right. Okay.
 18 And if you recall -- let me ask you this. Did
 19 you ever tell Oewen that you were never late on
 20 payments?
 21 A. No, not personally. Now, I'm going to recant
 22 part of that. I did tell Oewen that I wasn't late in
 23 that time period in 2013. And they actually told me
 24 that I wasn't late in those time periods in 2013. And

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1 they told me --
 2 Q. What time periods are you talking about?
 3 A. I'm talking about -- I'll revise that even. Back
 4 in the late part, October 2013, when I found out there
 5 was a problem and I talked to Oewen, they -- I could go
 6 online and it showed all of those months clear. And
 7 when I talked to the mortgage people, their officers,
 8 they said -- I told them that I hadn't been late, that I
 9 was being told on the credit report that it was. And
 10 they told me my problems were with Equifax.
 11 Q. Okay. And I apologize. I'm just trying to
 12 understand.
 13 So in October of 2014, you spoke with Oewen; is
 14 that right?
 15 A. No. In October of 2013 --
 16 Q. Okay.
 17 A. -- when this all first started, I talked to them
 18 about what I found on there that was incorrect and they
 19 were telling me their records showed that I was current.
 20 Q. And so when you talked to Oewen in October 2013,
 21 did you tell them that you were never late at all or did
 22 you tell them that you were never late for that month?
 23 A. I told them I was never late in all those months
 24 that they had me reported up to that point. And I

11 (Pages 38 - 41)

Exhibits discussed beginning on page 37 of the Depo.

TRADE

AUTOMATED CONSUMER DISPUTE VERIFICATION

EQUIFAX CREDIT INFORMATION SERVICES

Consumer Number	99993151006543102	Dispute 1	[001] NOT HIS/HERS. PROVIDE COMPLETE ID
Origin NCRA	EXX	Bureau Code	9999
Date Created	05/31/2013	Response Due	06/22/2013
Submitter Code	465TS01690	Dispute 2	
Account Number	7092244537	FCRA Relevant Information	
Grantor Name	Owens Loan Servicing, LLC		
Respondent Name	Daniel John		
Respondent Phone	561-682-7675	Response Date	06/02/2013
Response Code	[X] Verified As Reported		
	<input type="checkbox"/> Delete Account		<input type="checkbox"/> Delete Fraud

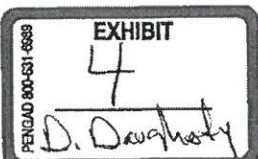
Reported Consumer Identity	Same	Modified Consumer Identity	
Name	DAUGHERTY DAVID MAX	Name	DAUGHERTY DAVID
AKA		AKA	
Addr	35 VALLEY VIEW DR 35, VIENNA, WV 26105	Addr	35 VALLEY VIEW DR, VIENNA, WV 26105
Per	PO BOX 816, PARKERSBURG, WV 26102	Per	
SSN	232-04-9020	SSN	232-04-9020
DOB	12/14/1957	DOB	
Phone	304-295-6161	Phone	

Account Type	ECOA	Date Open	07/29/99	Type & Rate	M-	2711	Narratives
25							
Credit Limit	High Credit	Current Balance	\$8311.1	Paid Due			
Original Charge Off	Date 1st Delinquency	Last Payment Date	01/2013	Date Closed			
[1] Invalid activity design '1'	Activity Designator	Credit Classification		Purchased/Sold to Name/Original Creditor		Purchase Indicator	Mortgage to Number
30	Term Frequency	Sched Monthly Pmt	\$980	Actual Payment	\$980	Delisted Pay Start Date	Balloon Payment
Date of Account Info	Pmt Hist Months 1-12	Pmt Hist Months 13-24	Pmt Hist Months 25-35	Pmt Hist Months 36-45	Pmt Hist Months 46-60	Pmt Hist Months 61-72	Pmt Hist Months 73-84
01/2013	--D0000000010	43338					
Continued Info Indicator							
Compliance Condition Code							
Special Comment Code							
Account Status	[11] Current account						
Payment Rating	[0] Current account						

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EQUIFAX CREDIT INFORMATION SERVICES

Control Number	99993151006543103	Dispute 1	[001] NOT HIS/HERS. PROVIDE COMPLETE ID
Origin NCRA	EX	Bureau Code	9995
Date Created	05/31/2013	Response Due	06/22/2013
Subscriber Code	465801690	Dispute 2	
Account Number	7092244537	ECRA relevant information	
Genitor Name	OCEAN LOAN SERVISING, LLC		
Responser Name	Daniel John		
Responser Phone	561-682-7675	Response Date	06/02/2013
Reported Code	<input checked="" type="checkbox"/> Verified As Reported	<input type="checkbox"/> Delete Account	<input type="checkbox"/> Delete Fraud

Reported Consumer Identity		Same		Modified Consumer Identity	
Name	DAUGHERTY DAVID MAX	<input checked="" type="checkbox"/>	Name	DAUGHERTY DAVID	
AKA/FN		<input type="checkbox"/>	AKA/FN		
Addr	35 VALLEY VIEW DR. 35, VIENNA, WV 26105	<input type="checkbox"/>	Addr	35 VALLEY VIEW DR, VIENNA, WV 26105	
Prev PO BOX	816, PARKERSBURG, WV 26102	<input type="checkbox"/>	Prev		
SSN	232-04-9020	<input checked="" type="checkbox"/>	SSN	232-04-9020	
DOB	12/14/1957	<input type="checkbox"/>	DOB		
Phone	304-295-6161	<input type="checkbox"/>	Phone		

Account Type	ECOA	Date Open	08/1999	Type & Rate	M-	Narratives	(451) (272)
08	I						
Credit Limit	\$100813	High Credit		Current Balance	\$85539	Paid Due	\$6128
Chief's Change-Off		Date 1st Delinquency	10/2011	Last Payment Date	01/2012	Date Closed	
[2] Invalid activity design '2'		Activity Designator		Creditor Classification		Purchased/Sold To Name/Original Creditor	
Terms Duration	30	Term Frequency	[M] Monthly	Sched Monthly Pmt	\$1077	Actual Payment	\$200
Date of Account Info	03/2013	Print Hist Months 1-12	Print Hist Months 13-24	Print Hist Months 25-36	Print Hist Months 37-48	Print Hist Months 49-60	Print Hist Months 61-72
Consumer Info Indicator							
Compliance Condition Code							
Special Comment Code	[B0] Foreclosure proceedings started						
Account Status	[82] Account 120 days past due date						
Payment History							

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Exhibit 5 discussed on page 37 of Depo.



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EQUIFAX CREDIT INFORMATION SERVICES

Card Number	99993184007034103	Dispute 1	[001] NOT HIS/HERS. PROVIDE COMPLETE ID
Origin	EXP	Bureau Code	9999
Date Created	07/03/2013	Response Due	07/24/2013
Subscriber Code	465FS01590	Dispute 2	
Account Number	7092244537	ECRA Preempt Information	
Cardholder Name	OCWEN Loan Servicing, LLC		
Respondent Name	Raj Kumar		
Respondent Phone	561-682-7675	Response Date	07/05/2013
Response Code	<input checked="" type="checkbox"/> Verified As Reported	<input type="checkbox"/> Modify As Shown	<input type="checkbox"/> Delete Account
	<input type="checkbox"/> Debit Account	<input type="checkbox"/> Debit Fraud	

Reported Consumer Identity		Same		Modified Consumer Identity	
Name	DAUGHERTY DAVID MAX	<input checked="" type="checkbox"/>	Name	DAUGHERTY DAVID	AKA/IN
Addr	35 VALLEY VIEW DR. 35, VIENNA, WV 26105	<input type="checkbox"/> <td>Addr</td> <td>35 VALLEY VIEW DR. VIENNA, WV 26105</td> <td>AKA/IN</td>	Addr	35 VALLEY VIEW DR. VIENNA, WV 26105	AKA/IN
PO Box	PO BOX 816, PARKERSBURG, WV 26102	<input type="checkbox"/> <td>PO Box</td> <td></td> <td></td>	PO Box		
SSN	232-04-9020	<input checked="" type="checkbox"/> <td>SSN</td> <td>232-04-9020</td> <td></td>	SSN	232-04-9020	
DOB	12/14/1957	<input type="checkbox"/> <td>DOB</td> <td></td> <td></td>	DOB		
Phone	304-295-6161	<input checked="" type="checkbox"/> <td>Phone</td> <td>304-295-6161</td> <td></td>	Phone	304-295-6161	

Account Type	ECOA	Date Open	Type & Rate	Narrative
08	I	08/1999	M-	[451] [272]
Credit Limit	High Credit	Current Balance	Paid Due	
	\$100813	\$85639	\$6128	
Original Charge-Off	Date 1st Delinquency	Last Payment Date	Date Closed	
	10/2011	01/2012		
Activity Descriptor	Activity Classification	Purchased/Sold To Name/Original Creditor	Purchase Indicator	Refinance Number
[2] Invalid activity design '2'				
Term Duration	Term Frequency	Sched Monthly Pmt	Actual Payment	Deferred Pay Start Date
30	[M] Monthly	\$1077	\$200	
Date of Account Info	Print Hist Months 1-12	Print Hist Months 13-24	Print Hist Months 25-36	Print Hist Months 37-48
06/2013	-DD4DDDDDDDD	DD323B		
Consumer Info Indicator				
Compliance Condition Code				
Special Comment Code	[PO] Foreclosure proceedings started			
Account Status	[82] Account 120 days past due date			
Payment Rating				

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Exhibit 6 discussed on page 38 of the depo.

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EQUIFAX CREDIT INFORMATION SERVICES

Control Number	99993184007034101	Dispute 1	[001] NOT HIS/HERS. PROVIDE COMPLETE ID
Origin NCIA	EPX	Bureau Code	9999
Date Created	07/03/2013	Response Due	07/24/2013
Subscriber Code	605FM50178	Dispute 2	
Account Number	12907408	FCA Relevant Information	
Grantor Name	Ocean Loan Servicing, LLC		
Response Name	Shalini Singh		
Response Phone	561-682-7675	Response Date	07/09/2013
Response Code	<input checked="" type="checkbox"/> Verified As Reported	<input type="checkbox"/> Modify As Shown	<input type="checkbox"/> Delete Account
		<input type="checkbox"/> Delete Fraud	

Reported Consumer Identity	Same	Modified Consumer Identity	
Name	DAUGHERTY DAVID MAX	Name	DAUGHERTY DAVID
Address	35 VALLEY VIEW DR. 35, VIENNA, WV 26105	Address	35 VALLEY VIEW DR., VIENNA, WV 26105
SSN	232-04-9020	SSN	232-04-9020
DOB	12/14/1957	DOB	
Phone	304-295-6161	Phone	

Account Type	ECOA	Date Open	08/1999	Type & Rate	MT	[231] PAID BY DEALER	Neutrality
Credit Limit	\$100813	Current Balance	\$0	Paid Due			
Original Charge-Off	Date of Delinquency	Last Payment Date	09/2011	Date Closed			
[1] Invalid Designator	Activity Designator	Creditor Classification		Purchased / Sold To Name / Original Creditor		Purchase Indicator	Mortgage id Number
Terms Duration	15	Term Frequency	Monthly	Scheduled Monthly Pmt	\$1077	Actual Payment	
Date of Account Info	09/2011	Pmt Hist Months 1-12	DDDDDDDDDDDD	Pmt Hist Months 13-24	DDDDDDDDDDDD	Pmt Hist Months 25-36	DDDDDDDDDDDD
Consumer Info Indicator		Pmt Hist Months 37-48	DDDDDDDDDDDD	Pmt Hist Months 49-60	DDDDDDDDDDDD	Pmt Hist Months 61-72	DDDDDDDDDDDD
Special Comment Code	[0] Account transferred to another lender	Pmt Hist Months 73-84	DDDDDDDDDDDD	Pmt Hist Months 85-96	DDDDDDDDDDDD	Pmt Hist Months 97-108	DDDDDDDDDDDD
Account Status	[11] Current account						
Payment Rating	[0] Current account						

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PENGAD 800-631-6969

EXHIBIT

O. Daugherty

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